

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**





# 76-1518

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1518

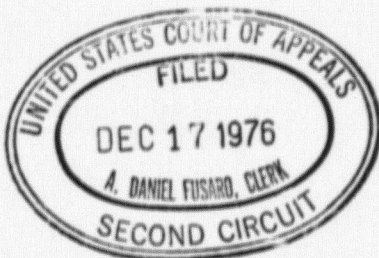
UNITED STATES OF AMERICA,  
*Appellant,*

—v.—

WILLIAM TURNER,  
*Appellee.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

## APPENDIX FOR THE APPELLANT



PETER C. DORSEY,  
*United States Attorney*  
District of Connecticut  
New Haven, Connecticut 06508

HAROLD JAMES PICKERSTEIN,  
*Chief Assistant U.S. Attorney.*

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**CRIMINAL DOCKET  
UNITED STATES DISTRICT COURT**

JUDGE ZAMPANO

N-74-124

D. C. Form No. 100 Rev.

TITLE OF CASE

ATTORNEYS

THE UNITED STATES

vs.

WILLIAM D. TURNER  
&  
ELI PINOCI

**RECEIVED**

NOV 17 1976

U.S. ATTORNEY'S OFFICE  
NEW HAVEN, CONNECTICUT

For U.S.:

Peter C. Dorsey, U.S. Atty  
Harold J. Pickerstein, Chi.  
Assistant U.S. Attorney  
Federal Building  
New Haven, Conn.

TURNER:

For Defendant:

Robert G. Oliver  
P.O. Box 603  
New Haven, Conn.

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed	Clerk				
J.S. 3 mailed	Marshal				
Violation U.S.C.	Docket fee				
Title 18					
Sec. 542					
Turner (counts 1, 2 & 3)					
Pinoci (count 3)					

PROCEEDINGS

DATE 12/17/74	The Grand Jury at New Haven returned a True Bill of Indictment charging violation of Title 18 U.S.C. 542 - three counts - wilfully and knowingly did enter and introduce, and attempt to enter and introduce, into the commerce of the United States, imported merchandise by means of a false and fraudulent invoice and conspiring with other to commit an offense against the United States. Bench Warrant to issue and bond to be set by U.S. Magistrate. Newman, J. m-12/18/74.
12/19	Bench warrants issued in duplicate and together with a certified copy of the Indictment handed to U.S. Marshal for service.
1975 3/21	TURNER: Certified copy of docket sheet, Waiver of removal hearing, minutes of 1/27/75 and 2/11/75, and Magistrates Docket in lieu of certified copy of Indictment, received from U.S.D.C. for the Southern Dist. of California. receipt acknowledged.
4/23	TURNER: Motion for Bench Warrant and Forfeiture of Bond, filed by the Government.
4/29	TURNER: PLEA: Continued for two weeks. Zampano, J. m-4/30/75.



DATE	PROCEEDINGS
1975	
5/1	Court Reporter's Notes of Proceedings (Plea) held on April 29, 1975, filed. Russell, R.
5/12	Hearing held on Plaintiffs (Govt) Motion for Bench Warrant and Forfeiture of Bond re: Wm. Turner. Motion of without prejudice. Appearance of Robert G. Oliver, filed for defendant. Matter continued to 2:00 P.M. today or 10:15 tomorrow or for sure on May 27, 1975 at 11:00 A.M. for plea. Zampano, J. m-5/12/75.
5/16	Court Reporter's notes of proceedings held on May 12, 1975 (motion), filed. Russell, R.
5/27	Letter from U.S. Atty's Office to Atty Oliver, re: Standing Order for Discovery, filed.
5/27	TURNER: PLEA: Plea of Not Guilty entered to Counts 1, 2, and 3. Case continued on same bond of \$5,000.00 without surety. Any change of residence or employment, the deft. must contact his atty. as to his whereabouts. Travel is limited to continental U.S.. If there is a request to leave the country, he should contact the U.S. Atty's Office. 30 days to file motions. Zampano, J. m-5/27/75.
5/2	TURNER: Notice of Readiness, filed by Government.
5/6	Court Reporter's Notes of Proceedings (Plea) held on May 27, 1975, filed. Russell, R.
5/13	Stipulation for Extension of Limits on Bond entered into by the parties endorsed as follows: "Ordered that the same be and hereby is granted." Newman, J. m-6/ /75 One copy handed to Atty Oliver and one copy given to U.S. atty in New Haven.
5/23	Marshal's return showing service, filed: Warrant of Arrest. (Turner)
5/26	Stipulation for Extension of Time to File Motions, entered by the parties and Ordered the same and hereby is granted, Newman, J. m-6/26/75. copies mailed to counsel of record
5/10	Motion for Discovery, Interrogatories, Production and Inspection, Motion to Suppress, Motion for Separate Trial or Severance and Motion to Suppress, filed by defendant (TURNER)
7/15	Stipulation for Extension of Limits on Bond executed by the parties, with Order granting same, thereon. Zampano, J. m-7/15/75. copies mailed to counsel
7/16	TURNER: Motion to Strike Interrogatories, filed by Government.
8/6	TURNER: Govt.'s Supplemental Memorandum in Support of Its Motion to Strike Defendant's Interrogatories, filed.
8/8	TURNER: Defendant William D. Turner's Brief In Opposition to Government's Motion to Strike Interrogatories, filed.
8/12	TURNER: Stipulation Concerning Briefing Schedules and Oral Argument, filed by the parties and endorsed: "Ordered that the same be and hereby is granted." Zampano, J. m-8/13/75. copies mailed to Attys Pickerstein and Oliver.
9/5	TURNER: Defendant's Brief In Support of Motion to Suppress, filed
9/22	TURNER: Government's Memorandum in Opposition to Defendant's Motion to Suppress, filed.
9/25	Stipulation for Extension of Bond Limits, filed by parties, and Ordered, that the same be and hereby is approved. Zampano, J. m-9/25/75. copies sent to counsel.
12/3	Court Reporter's Sound Recording of Plea, held on Apr. 29, 1975, filed. Russell, R.
"	Court Reporter's Sound Recording of Plea held on 5/27/75, filed. Russell, R.
12/3	Court Reporter's Sound Recording of Motion held on 5/12/75, filed. Russell, R.



DATE	PROCEEDINGS
1976	
10/5	Deft's Reply Brief In Support of Motion to Suppress, filed.
" "	Memorandum of Decision; filed and entered. Motion to Suppress
	is granted. Zampano, J. m-10/5/76. copies mailed to Atty. Oliver
	and Pickerstein.
10/28	Notice of Appeal and Certification, filed by govt.
10/29	Certified copy of Notice of Appeal and Certification and docket
	entries mailed to U. S. C.A.
11/9	At the call of the jury assignment list, case reported
	not furnish business until appeals court rules on granting
	of motion to dismiss. Zampano, J. M-11/9/76.



UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :  
V. : CRIMINAL NO.  
WILLIAM D. TURNER and :  
ELI PINOCI :

INDICTMENT

The Grand Jury Charges:

COUNT I

On or about the 13th day of May 1974, in the District of Connecticut, WILLIAM D. TURNER, wilfully and knowingly did enter and introduce, and attempt to enter and introduce, into the commerce of the United States, imported merchandise, that is, approximately 50 kilograms of amygdalin purissimum, by means of a false and fraudulent invoice which falsely and fraudulently stated that the package to which it was annexed contained 50 kilograms of amygdalin purissimum valued at \$8,750.00, whereas, in truth and fact, as WILLIAM D. TURNER, well knew, the said package contained approximately 50 kilograms of amygdalin purissimum of an approximate value of \$15,000.00.

In violation of Title 18, United States Code, Section 542.

COUNT II

On or about the 10th day of July 1974, in the District of Connecticut, WILLIAM D. TURNER wilfully and knowingly did enter and introduce, and attempt to enter and introduce, into the commerce of the United States, imported merchandise, that is, approximately 100 kilograms of amygdalin crystalline powder, by means of a false and fraudulent invoice which falsely and fraudulently stated that the package to which it was annexed contained 100 kilograms of amygdalin crystalline powder valued at

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\$17,500.00, whereas, in truth and fact, as WILLIAM D. TURNER well knew, the said package contained approximately 100 kilograms of amygdalin crystalline powder of an approximate value of \$30,000.00.

In violation of Title 18, United States Code, Section 542.

#### COUNT III

From on or about the 8th day of December 1973, up to and including the date of the filing of this indictment, in the District of Connecticut and elsewhere, WILLIAM D. TURNER and ELI PINOCI, the defendants herein, wilfully and knowingly did combine, conspire, confederate and agree together, with each other, and with diverse other persons to the Grand Jury both known and unknown, to commit the following offense against the United States of America, to wit: to wilfully and knowingly enter and introduce into the commerce of the United States imported merchandise, that is, amygdalin crystalline powder and amygdalin purissimum, by means of false and fraudulent declarations and by means of false statements, in violation of Title 18, United States Code, Section 542.

#### OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants performed the following overt acts:

1. On or about December 8, 1973, ELI PINOCI sent a letter dated December 8, 1974, to WILLIAM TURNER.
2. On or about April 2, 1974, ELI PINOCI, on behalf of Sidus Arzneimittel GmbH, Munich, Germany, prepared and caused to be prepared an invoice for 50 kilograms of amygdalin purissimum consigned to Connecticut Fine Chemical Corporation, in the amount of \$8,750.00.
3. On or about April 2, 1974, ELI PINOCI, on behalf of Sidus Arzneimittel GmbH, Munich, Germany, prepared and caused to be prepared an invoice for the same 50 kilograms of amygdalin purissimum described in Overt Act 2 in the



amount of \$15,000.00, and sent this invoice to WILLIAM TURNER, Chula Vista, California.

4. On or about May 13, 1974, the 50 kilograms of amygdalin purissimum described in Overt Act 2 was entered into the United States at Hartford, Connecticut, under the false invoice described in Overt Act 2.

5. On or about May 15, 1974, ELI PINOCI, on behalf of Sidus Arzneimittel GmbH, Munich, Germany prepared and caused to be prepared an invoice for the same 100 kilogram of amygdalin crystalline powder consigned to Connecticut Fine Chemical Corporation, in the amount of \$17,500.00.

6. On or about May 15, 1974, ELI PINOCI, on behalf of Sidus Arzneimittel GmbH, Munich, Germany prepared and caused to be prepared an invoice for the same 100 kilograms of amygdalin crystalline powder described in Overt Act 5 in the amount of \$30,000.00, and sent this invoice to WILLIAM TURNER, Chula Vista, California.

7. On or about July 10, 1974 the 100 kilogram of amygdalin crystalline powder described in Overt Act 5 was entered into the United States at Hartford, Connecticut under the false invoice described in Overt Act 5.

8. On or about May 15, 1974, ELI PINOCI, sent a letter to WILLIAM TURNER.

9. On or about April 2, 1974, ELI PINOCI sent a letter to WILLIAM TURNER.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL

\_\_\_\_\_  
FOREMAN

PETER C. DORSEY  
UNITED STATES ATTORNEY

BY: HAROLD JAMES PICKERSTEIN  
CHIEF ASSISTANT UNITED STATES ATTORNEY

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
County Courthouse 220 W. Broadway, San Diego, California 92101  
San Diego Judicial District

TELEPHONIC SEARCH WARRANT  
(ORIGINAL)

INDEX NO. 02928

CASE NO. \_\_\_\_\_  
(For Court's use only)

THE PEOPLE OF THE STATE OF CALIFORNIA, to any Sheriff, Constable, Marshal, or Policeman in the County of San Diego. Proof by oral statement under oath made in conformity with Penal Code Section 1526(b) having been made this day to me by SETH NADEL and SHARON DALTON, that there is probable cause for the issuance of a Search Warrant on grounds set forth in Penal Code Section 1524.

YOU ARE THEREFORE COMMANDED to make a search at any time of the day or night, good cause having been shown therefore, of the following described persons or property:

33 East Shasta Street, Chula Vista, County of San Diego, California.

Described as a single story single family dwelling, green stucco with dark green wood trim, and attached garage, including all storage areas, attics, and yards of said premises.

County of San Diego, California, for the following described property: Drugs, including but not limited to, amygddalin, amygdolins, lactile, B-17 and/or Vitamin B-17.

Documents and effects that tend to show possession and control of said premises, including but not limited to business papers, mail envelopes, utility bills, and rental agreements.

and if you find the same or any part thereof, to retain the same in your custody, subject to order of court as provided by law.

This Search Warrant was issued

Hon. \_\_\_\_\_  
Magistrate

(Time) \_\_\_\_\_ (Date) June 11, 1974

By \_\_\_\_\_

Department \_\_\_\_\_

Badge No. \_\_\_\_\_

Time/Date of Execution \_\_\_\_\_

Kenneth A. Johns  
Magistrate

TELEPHONIC SEARCH WARRANT

One (1)

1374

A true copy  
of the original of said Court

[Signature] Deputy

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BEST COPY AVAILABLE



In the Municipal Court, San Diego Judicial District  
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SEARCH WARRANT

COUNTY OF SAN DIEGO }  
STATE OF CALIFORNIA } ss.

INDEX NO. 02928  
CASE NO. \_\_\_\_\_  
(For Court's use only)

THE PEOPLE OF THE STATE OF CALIFORNIA, to any Sheriff, Constable, Marshal, or Policeman in the County of San Diego: Proof by oral statement under oath made in conformity with Penal Code Section 1526 (b) having been made this day to me by Seth R. MADOL, that there is probable cause for the issuance of a Search Warrant on grounds set forth in Penal Code Section 1524, YOU ARE THEREFORE COMMANDED to make a search at any time of the day or night good cause having been shown therefore, of the following described persons or property:  
53 East Shasta Street, Chula Vista, County of San Diego, California,  
described as a single story, single family dwelling, of green stucco  
with dark green wood trim and attached garage, including all storage  
areas, attics, and yards of said premises.

County of San Diego, California, for the following described property: Drugs, including but  
not limited to, amygdalin, amygdalina, laetrile, B-17, and/or vitamin  
B-17, documents and effects that tend to show possession and control of  
said premises, including but not limited to business papers, mail  
envelopes, utility bills, and rental agreements.

and if you find the same or any part thereof, to retain the same in your custody, subject to order of court as provided by law.

This Search Warrant was issued

(Time) 2:30 (Date) 6-11-74

Kenneth A. Johns  
Magistrate

This warrant is subject to Court Order. A Search Warrant  
is not valid unless it is signed by a Magistrate.  
It is the duty of the Sheriff, Constable, Marshal, or  
Policeman to return the property to the person or persons  
from whom it was seized.

Kenneth A. Johns  
Hon. Kenneth A. Johns  
Magistrate

By Seth R. MADOL Seth R. Madol  
Department U. S. Treasury, U. S. Customs  
Badge No. 562 370.  
Time/Date of Execution 6-11-74 2:15 hrs

SEARCH WARRANT

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John  
Deputy

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
San Diego Judicial District

COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

RECEIPT AND INVENTORY

INDEX NO. 02922  
CASE NO. \_\_\_\_\_

Davis, Turner  
(name)

Receipt is hereby acknowledged, and the undersigned makes this Inventory, of the following property and things seized by him this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- 1) Two bottles tablets
- 2) Letter to William Turner
- 3) Three boxes containing numerous bottles of tablets
- 4) Three boxes containing numerous bottles of tablets
- 5) Two bottles tablets
- 6) Letter to Winifred Davis
- 7) One carton containing vials of wht tablets
- 8) Two cardboard boxes of Hydrazine Sulfate
- 9) One plastic syringe
- 10) Two letter to Wynne Davis
- 11) Three glass ampules
- 12) Cardboard carton containing bottles of B-15
- 13) Ten empty plastic bottles
- 14) Two empty plastic bottles in plastic bag
- 15) Four packs "Glad Bags"
- 16) Two envelopes to Regional Lab

DATE: June 12, 1974 TIME: 2:30 am

SIGNED Thomas W. Schaefer  
DEPT. San Diego Police Dept.  
BADGE NO. 151

Thomas W. Schaefer

the officer by whom this warrant was executed, do hereby certify that the above inventory contains a true and detailed account of all property taken by me on the date and place above stated.

Subscribed and sworn to before me

on this 12th day of June, 1974

1974

William H. Jones, Judge, Municipal Court  
San Diego Judicial District

Officer Executing Search Warrant

RECEIPT AND INVENTORY

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MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
San Diego Judicial District

COUNTY OF SAN DIEGO }  
STATE OF CALIFORNIA }

RECEIPT AND INVENTORY

INDEX NO. 02928  
CASE NO. \_\_\_\_\_

Davis, Turner  
(name)

Receipt is hereby acknowledged, and the undersigned makes this inventory, of the following property and things seized by him this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- 17) Three packs B-15 labels
- 18) One pack Hydrazine Sulfate labels
- 19) Envelope addressed to William Turner
- 20) Box containing, various drugs, Syringes, ampules and tablet
- 21) Twenty nine vials USP Water
- 22) Three vials white tablets
- 23) Five boxes of 10 ampules Emsgel
- 24) Gamm Walther P38 automatic Ser. no. 310951
- 25) "Culture and Life" pamphlets
- 26) Seventeen bundles and numerous loose cardboard cartons
- 27) Two bottles heart shaped pink tablets
- 28) Box of numerous bottles of tablets
- 29) Box of loose vials of Amygdalin
- 30) Three boxes of Shipping Envelopes
- 31) Three bottles white tablets and notepad.
- 32) Two utility receipts to Winfred Davis

DATE: Sept 12, 1974 TIME: 2:30 am

SIGNED: Thomas W. Scheffer  
DEPT. / AGENCY: San Diego, Calif. D.V.  
BADGE NO. 1516

I, Thomas W. Scheffer, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me  
this 12th day of June, 1974

Thomas W. Scheffer Officer Executing Search Warrant  
San Diego Judicial District Title

RECEIPT AND INVENTORY

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## San Diego Judicial District

COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

ss.

## RECEIPT AND INVENTORY

INDEX NO.  
CASE NO.

02928

Davis, Turner  
(name)

Receipt is hereby acknowledged, and the undersigned makes this inventory, of the following property and things seized by him this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- 33) Three bottles tablets and four ampules of liquid
- 34) Letters and documents to William Turner
- 35) Letters and documents to Davis and Turner
- 36) Folder of advertisements
- 37) "Cancer News Journal" one copy
- 38) Box of 70 vials Amygdaline Injectables
- 39) Two boxes of vials of Amygdaline
- 40) Two boxes unlabeled tablets
- 41) One box vials of unlabeled tablets
- 42) One box of vials of tablets
- 43) One box of Amygdaline Tablets
- 44) One box jars of Calcium Oxalate
- 45) Forty six bottles Amygdaline Tablets
- 46) Forty five bottles of Hydrazine Sulfate tablets
- 47) Thirty eight bottles Calcium Pantothenate tablets
- 48) Twenty five bottles Amygdaline Tablets

DATE: Dec 12, 1934 TIME: 2:30 am

SIGNED Thomas W. Schaefer  
DEPT. / AGENCY San Diego State P.D.  
BADGE NO. 1010

I, Thomas W. Schaefer, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me  
this 12th day of Dec, 1934

Thomas W. Schaefer  
San Diego State P.D.  
Officer Executing Search Warrant

RECEIPT AND INVENTORY

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MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
San Diego Judicial District

COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

ss.

RECEIPT AND INVENTORY

INDEX NO. 02928  
CASE NO. \_\_\_\_\_

Davis, Turner  
(name)

Receipt is hereby acknowledged, and the undersigned makes this inventory, of the following property and things seized by him this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- 49) thirteen bottles tablets
- 50) Box containing two packages tablets
- 51) Two envelopes Amygdalin labels
- 52) Twelve ampules Amygdalin Injectables
- 53) Miscellaneous papers
- 54) Four jars Penicillin compound
- 55) One box Amygdalin injectable vials
- 56) Four disposable syringes, three vials amygdalin, one vial unit
- 57) Box of Amygdalin labels
- 58) Envelope to Bill Turner containing plastic syringe
- 59) Miscellaneous pamphlets and papers
- 60) Bank note in name of William Turner
- 61) Three vials yellow tablets
- 62) Box of miscellaneous papers
- 63) Bag of papers and documents
- 64) Fifty two mailing envelopes

DATE Nov 12, 1974 TIME 2:30 a.m.

SIGNED Thomas W. Schaefer  
DEPT. AGENCY San Diego Police Dept.  
BADGE NO. 19123

Thomas W. Schaefer

the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me  
this 14th day of Nov 1974

Thomas W. Schaefer  
San Diego Judicial District  
Officer Executing Search Warrant

RECEIPT AND INVENTORY

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MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
San Diego Judicial District

COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

RECEIPT AND INVENTORY

INDEX NO.  
CASE NO.

02921

Davis, Turner  
(name)

Receipt is hereby acknowledged, and the undersigned makes this Inventory, of the following property and things seized by him this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- (5) One box (oral pamphlets)
- (6) Brown suitcase with numerous papers
- (67) One ledger (68) One calling card file
- (69) One bank deposit, papers, Regional Laboratory Stamp
- (70) Two address books, three note pads
- (71) Three mailing record books, two envelopes with Amygdal
- (72) Five pounds green tablets (73) Box of Correspondan
- (74) Card file, notebook, box of K13 capsules
- (75) Two cartons Amygdal, injectable, tablets, and Hydrozine S
- (76) Miscellaneous papers
- (77) Ten vials Amygdal injectable, one bottle Pancre
- (78) Four bottles tablets
- (79) Box of packing envelopes and cartons

DATE: June 12, 1974 TIME: 2:30 am

SIGNED: Thomas W. Schaefer  
DEPT. AGENCY: San Diego S.D. V.D.  
BADGE NO. 2115

I, Thomas W. Schaefer

the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me  
this 12th day of June, 1974

Samuel A. Schaefer  
Judge, Municipal Court  
San Diego Judicial District  
Office Executing Search Warrant

RECEIPT AND INVENTORY

Date:

Attest: A true copy.

Attest: Clerk of said Court

-13A  
By Artie Deputy



1 DEPUTY DISTRICT ATTORNEY: This is Deputy District  
2 Attorney, Charles Bell of the County of San Diego. It is  
3 now approximately 3:08 p.m. on June 11 - what is it, the 11th?

4 The 11th.

5 1974. With me on this conference call are the Honorable  
6 Kenneth Johns, Seth Nadle, M-A-D-L-E (sic) and Sharon Dalton,  
7 D-A-L-T-O-N.

8 Your Honor, could you please swear the affiants?

9 JUDGE JOHNS: Do you solemnly swear the information  
10 you are about to give shall be the truth, the whole truth,  
11 and nothing but the truth, so help you God?

12 FEMALE: I do.

13 MALE: I do.

14 DEPUTY D.A.: Okay. First of all, I will ask you  
15 a number of questions Mr. Nadle. What are the described  
16 premises that you wish to search?

17 MR. NADLE: 53 East Shasta Street, Chula Vista,  
18 County of San Diego; California. Described as a single  
19 story single family dwelling, green stucco with dark green  
20 wood trim, and attached garage, including all storage  
21 areas, attics, and yards of said premises.

22 Q: And what do you wish to seize - what property  
23 do you wish to seize?

24 A: Drugs, including but not limited to, amygdalin,  
25 amygdalin, laetrile, B-17 and/or Vitamin B-17. Documents  
26 and effects that tend to show possession and control of  
27 said premises, including but not limited to business  
28 papers, mail envelopes, utility bills, and rental

1 agreements.

2 Q: Okay. Amygdalin is spelled A-M-Y-G-D-A-L-I-N.

3 A: Yes.

4 Q: Amygdalina is spelled the same with an "A"  
5 added on at the end.

6 A: Yes.

7 Q: And Laetrile is spelled L-A-E-T-R-I-L-E.

8 A: Yes.

9 Q: Okay. I would like to talk with Sharon Dalton  
10 now, please. Sharon, could you state what your occupation  
11 is?

12 A: I am a special operator for the State of  
13 California.

14 Q: Would that be Food and Drug?

15 A: Yes it is.

16 Q: And how long have you been working for them?

17 A: 8 years.

18 Q: You are involved in special agent situations  
19 then?

20 A: That's correct.

21 Q: And does this involve also making so-called  
22 undercover buys of illegal contraband and drugs and such?

23 A: Yes.

24 Q: And how long have you been doing this type  
25 of situation - acting in an undercover capacity?

26 A: 8 years.

27 Q: Now, earlier today at approximately 12:30  
28 in the afternoon, did you contact one Winifred Davis, that's

-15A



1 W-I-N-I-F-R-E-D by telephone?

2 A: Yes I did.

3 Q: And this was as a result of an investigation  
4 done by the State Food & Drug Commission that you did contact  
5 this lady?

6 A: Yes.

7 Q: What was the context of this conversation at  
8 12:30 in the afternoon today?

9 A: I identified myself as Sharon Dillon. I told  
10 her that I wished to purchase injectable amygdalin for  
11 my Aunt Janet Jacobson, a woman who had previously purchased  
12 amygdalin tablets from the subject, and she agreed to meet  
13 me after she secured the injectable amygdalin from a Mr. Turner.

14 Q: Okay. And where were you to meet her?

15 A: I was to meet her at 5:00 in the coffee shop  
16 at the Royal Inn.

17 Q: That's the Royal Inn located in Chula Vista.

18 A: Yes.

19 Q: On what street is that, do you --- E Street?  
20 Do you know what street it is on?

21 A: E Street, I believe.

22 Q: Okay, it is within the City of Chula Vista?

23 A: Yes it is.

24 Q: Okay. And did you in fact meet her and  
25 another individual at approximately 5:15?

26 A: Yes I did.

27 Q: Was this in a coffee shop?

28 A: Yes it was.

-16A

1 Q: Was the other individual identified as  
2 anybody?

3 A: Yes. She identified him as Mr. Turner.

4 Q: And did you engage in a general conversation  
5 with Mr. Turner and Winifred Davis in regards to this  
6 amygdalin?

7 A: Yes I did.

8 Q: Did he make statements to you that he  
9 manufactured pills and that the amygdalin was actually  
10 the same thing as laetrile?

11 A: Yes he did.

12 Q: And that they came out pure white?

13 A: Yes he did. He stated that he owned a lab  
14 and that he manufactured the amygdalin tablets and he also  
15 secured for people the injectable amygdalin.

16 Q: Okay. What type of a business did  
17 Mr. Turner indicate to you he had going during this conver-  
18 sation as to the amount of pills and number of customers  
19 that he was dealing?

20 A: Uh. Many many customers. I think the  
21 number 300 in the day or something like that was referred  
22 to at one time. And he stated that he had many many people  
23 that he sold both the injectable and the tablets to.

24 Q: And so, did you indicate how many pills  
25 you wish to - how many vials you wished to purchase from him?

26 A: I told them that I had \$2500 and I was told  
27 that there were many many people that they had to keep  
28 supplied with this and that they couldn't give that much to



1 me at this time. Although they would be making more and  
2 would be getting more in.

3 Q: So in other words, they just had the spare  
4 stuff that they had - they had to keep some on hand in other  
5 words to fill other orders, but the spare stuff that they  
6 had, they would sell to you today then?

7 A: That's what she told me, yes.

8 Q: Okay. She - meaning Winifred Davis?

9 A: Yes.

10 Q: Now, when you - after you had this conversation  
11 with them, did you in fact go out to make a purchase for  
12 this amygdalin?

13 A: Yes I did.

14 Q: And where was that made?

15 A: It was made in the parking lot in front of  
16 the Royal Inn which I believe is located at 600 "E" Street.

17 Q: And what happened at the parking lot?

18 A: Mr. Turner, backed the Dodge Charger next to  
19 my car and he opened the trunk and from the truck took a  
20 large brown package, shopping bag size, and he put it in  
21 the well of my station wagon, and he told me that he wasn't  
22 exactly sure that the correct number of vials were in there  
23 because it was prepackaged, but he was pretty sure.

24 Q: And how much per vial did he charge you?

25 A: He told me because I was buying such a large  
26 amount that they would reduce the price from \$6 to \$5 a vial.

27 Q: And so he sold you approximately 200 vials  
28 for \$1,000?

-18A

1 A: That's correct.

2 Q: And did he represent to you that this was  
3 amygdalin?

4 A: Yes he did. He told me that it was amygdalin.  
5 He showed me the labelling on the bottle and he told me that  
6 the directions for use if it was to be an inter-muscular  
7 injection, the directions were on the bottle.

8 Q: And did you give any money to Mr. Turner?

9 A: I gave the money to Miss Davis and then she  
10 gave the money back to me and told me to personally hand it  
11 to Mr. Turner.

12 Q: Did you in fact do that?

13 A: Yes I did.

14 Q: Okay. Now, is it against the law in your  
15 training and experience to sell this particular substance  
16 amygdalin?

17 A: Yes it is.

18 Q: And what section are we dealing with?

19 A: 1707.1 of the Health and Safety Code.

20 Q: Okay. Could you just briefly tell me what  
21 that section states?

22 A: It states that the sale, offering for sale,  
23 holding for sale, delivering, giving away, prescribing,  
24 or administering of any drug, medicine, compound, or device  
25 to be used in the diagnosis, treatment, alleviation, or cure  
26 of cancer is unlawful and prohibited, unless the application  
27 with respect thereto - - -

28 Q: Okay. That's fine. In other words, I take it

-19A



1 that this particular drug has to be approved and there has  
2 to be an application pending before the Food and Drug  
3 people, is this correct?

4 A: That's correct.

5 Q: And, Mr. Turner, neither Mr. Turner nor  
6 Miss Davis, have done that?

7 A: That is correct.

8 Q: During the course of your conversation -

9 JUDGE JOHNS: Charlie, could I interrupt for a  
10 minute?

11 DEPUTY D.A.: Yes.

12 JUDGE JOHNS: Has anyone to your knowledge made  
13 application to the Drug Administration for approval of  
14 the drugs?

15 SHARON DALTON: I believe that it has been done in  
16 the past and it has been denied.

17 JUDGE JOHNS: I see. Thank you.

18 DEPUTY D.A.: Now, going back. During the conversa-  
19 tion, was there any conversation about curing cancer with  
20 with particular drug that we are describing - amygdalin -  
21 with Mr. Turner?

22 A: Yes, both Mr. Turner and Miss Davis stated that  
23 this was a cancer cure. And, in cases that it did not  
24 effect a complete cure, it would cause an arrest of the cancer.

25 Q: And I take it they were describing your alleged  
26 Aunt in this particular situation?

27 A: Both my Aunt and my Uncle.

28 Q: Okay. And did you then make the purchase, and

-20A

1 then what?

2 A: After I made the purchase and give him the  
3 money, he was arrested.

4 Q: Okay. Now, during the course of your 8 years  
5 of employment, with the State Food and Drug, this has not  
6 been continuing employment, only acting as a special agent  
7 when you are called upon, is that correct?

8 A: That's correct.

9 Q: And have you developed a certain amount of  
10 expertise in the area of individuals selling drugs in this  
11 type of a quantity?

12 A: Yes.

13 Q: Sellers of large quantities of drugs like  
14 Mr. Turner?

15 A: Yes I have.

16 Q: And with the conversation that you had with  
17 Mr. Turner and with the experience that you have had in these  
18 undercover buys, do you have an opinion as to whether or not  
19 there will be additional contraband at the above-described  
20 premises?

21 A: Yes I would believe that there would be  
22 because he represented that he did indeed manufacture  
23 these amygdalin tablets and that he could not give me his  
24 entire supply of the amygdalin injectable because he was  
25 supplying other customers.

26 Q: Okay. Now, thank you Miss Dalton. I would  
27 ask you to continue to listen to the conversation, okay?

28 Mr. Hadda, are you on the line?

- 21A



1 MR. MADLE: Yes. By the name, my name is correctly  
2 spelled M-A-D-E-L.

3 DEPUTY D.A.: Oh, I'm sorry. I had it Madle. And  
4 you have been listening to the affiant, Sharon Dalton, is  
5 that correct?

6 A: Yes sir.

7 Q: Okay. Could you state what your occupation is?

8 A: I am a special agent, United States Treasury  
9 Department, United States Customs Service.

10 Q: And how long have you been so employed?

11 A: 4 years.

12 Q: And the type of case that we are dealing with,  
13 have you had any experience with drug dealers, such as the  
14 Turners and Winifred David?

15 A: Yes sir.

16 Q: And how many cases have you handled this type  
17 of a situation?

18 A: At least four.

19 Q: Okay. On these cases, during your training  
20 and experience as a Special Customs Agent, do you develop  
21 any expertise as to individuals storing drugs in particular  
22 locations?

23 A: Yes sir.

24 Q: As a result of your training and experience  
25 and other information, were you surveilling said premises  
26 located at 53 East Shasta today?

27 A: Yes sir.

28 Q: And what did you observe at approximately 4:52 pm?

1           A:     I observed a male wearing a green jacket and  
2 gray --- pardon me --- a blue jacket and gray pants come  
3 from the vicinity of the house at 53 East Shasta and go to  
4 the trunk of a black over blue 1969 Dodge Charger which I  
5 had previously observed to be in the driveway of that  
6 address. The Charger has California license plates  
7 522-J as in Juliette; Q-as in Queen; X-as in X-ray. He went  
8 to the trunk of the vehicle and was carrying a brown paper  
9 sack. He opened the trunk and placed the sack into the  
10 trunk of the vehicle and reclosed it and went over to the  
11 driver's seat. He then backed the vehicle onto East Shasta  
12 Street, drove a short way west on East Shasta, and backed  
13 into a driveway where a second individual entered the  
14 vehicle also from the general vicinity of the house, and the  
15 vehicle then proceeded under surveillance by myself and  
16 other Customs Agents with whom I was in constant radio  
17 communication to the Royal Inn in the 600 block of "E" Street  
18 in Chula Vista.

19           Q:     Okay. Now, these two individuals that got  
20 into the car were they subsequently identified as William  
21 Turner and Winifred Davis?

22           A:     Yes sir.

23           Q:     Okay. Now, you indicated that surveillance was  
24 maintained by yourself and other officers?

25           A:     Yes sir.

26           Q:     Did he and you maintain radio communications  
27 with these other officers?

28           A:     Yes sir.



1 Q: Did the individual either Turner or Davis,  
2 ever get out of the vehicle and change the bag in the trunk  
3 to your knowledge?

4 A: No sir.

5 Q: What did you observe then when --- I take it  
6 they went to the Royal Inn that had been previously described  
7 by Sharon Dalton?

8 A: Yes sir.

9 Q: And what did you observe at this point?

10 A: I observed both individuals in conversation  
11 with Miss Dalton in the coffee shop of the Royal Inn and  
12 subsequently all three went to the parking lot of the  
13 Royal Inn where Mr. Turner drove the Dodge Charger along  
14 side of Miss Dalton's car. He then went to the trunk and  
15 there was an exchange of money and the brown paper sack.  
16 The brown paper sack going --- Mr. Turner moved it from the  
17 trunk of the Charger and placed it in the rear of Miss Dalton's  
18 car and then there was an exchange of money from Miss Dalton  
19 to Miss Davis to Miss Dalton to Mr. Turner.

20 Q: Okay now you observed this yourself?

21 A: Yes sir.

22 Q: Did you also keep the car under constant  
23 surveillance while it was in the parking lot?

24 A: Yes sir.

25 Q: And was there anybody opening and closing  
26 the trunk at that time?

27 A: No sir.

28 Q: Okay. In other words, it was untouched?

-24A

1 A: Yes sir.

2 Q: Now during your investigation of this case,  
3 have you also had conversations with Tom Schaefer, an  
4 officer who is employed by the Chula Vista Police Department,  
5 whom you know to be honest and reliable?

6 A: Yes sir.

7 Q: And Tom Schaefer, I take it, has told you the  
8 following. That there is a telephone extension registered  
9 to Winifred Davis at the above address located at  
10 53 East Shasta in Chula Vista, is that not correct?

11 A: That is correct.

12 Q: Now Tom Schaefer, has also told you that he  
13 observed Mr. Turner go into the above said premises within  
14 the last week, is that correct?

15 A: Yes sir.

16 Q: Now, based upon the information ---  
17 Excuse me, Judge do you have any questions of either  
18 Mr. Nadel or Sharon Dalton?

19 JUDGE: No, I have no questions.

20 DEPUTY D.A.: Now based upon the information that  
21 has been given by both yourself and Sharon Dalton, do you  
22 believe that grounds exist within Penal Code section 1524  
23 of the California Penal Code to order a search warrant?

24 A: Yes sir I do.

25 Q: And do you therefore pray that a warrant  
26 be issued?

27 A: I do.

28 Q: Now I note that it is 9:25 at this time. I



1 take it you are going to have to gather some additional  
2 officers from the Chula Vista PD to conduct the search and  
3 it may be well past 10:00 before you do get over to the  
4 residence in question, is that not correct?

5 MR. NADEL: That is correct.

6 Q: And I take it that both the individuals are  
7 now in custody?

8 A: Yes sir, but I believe their lawyer is on  
9 the way down to make bail for them.

10 Q: Okay. And so you wish to serve the search  
11 warrant as soon as practicable, either before or after 10:00,  
12 to prevent any destruction of the contraband, is that correct?

13 A: Yes sir.

14 Q: In case that you do not get to the residence  
15 before 10:00, do you wish night-time service?

16 A: Yes I do.

17 Q: Your Honor, would you please order night-time  
18 service on this particular case do to the circumstances  
19 that we are dealing with?

20 JUDGE: Yes, do they have the standard form of  
21 telephonic warrant?

22 DEPUTY D.A.: Yes, they will be using our form and  
23 we will be having a Chula Vista Police Officer serve the  
24 warrant since the warrant designates that a sheriff,  
25 constable, marshal, or policeman in the County of San Diego,  
26 serve the warrant. Well, they will be the affiants, but  
27 we will have a police officer actually accompany them and  
28 serve the warrant?

-26A

1 JUDGE JOHNS: Very well. What form do you have  
2 before you sir?

3 MR. NADEL: I have form MS-111.

4 DEPUTY D.A.: MIS.

5 MR. NADEL: MIS, I'm sorry. Search warrant.

6 JUDGE JOHNS: All right, in the appropriate space  
7 where you will find the words "a service by day" - do you  
8 see that phrase?

9 DEPUTY D.A.: Referring to line 3.

10 JUDGE: Yes.

11 MR. NADEL: Yes sir.

12 JUDGE: All right, after that in your handwriting,  
13 "or night".

14 DEPUTY D.A.: Wait - excuse me. That's down on  
15 line 5 "any time of the day".

16 MR. NADEL: Right. I've found it.

17 DEPUTY D.A.: That's on line 5. 1-2-3-4-5. Okay.

18 JUDGE: Now add the words "or night".

19 MR. NADEL: Or night.

20 JUDGE: And in the lower right-hand corner of that  
21 document, you will find a line and below that line, it will  
22 have the word "Magistrate".

23 MR. NADEL: Yes sir.

24 JUDGE: Would you enter my name above that line -  
25 Kenneth A. Johns J-O-H-N-S.

26 MR. NADEL: Yes sir.

27 JUDGE: And below that, your name, department,  
28 and badge number.



1 MR. NADEL: Right.

2 JUDGE: And the time, date of execution ---

3 DEPUTY D.A.: No. You leave that blank until the

4 warrant is physically served.

5 JUDGE: Okay: All right, you will need the time of

6 the order, and that should be - according to my clock right

7 now - about 9:30, does that check with yours, sir?

8 MR. NADEL: Yes. I have approximately 9:28 - 9:30 p.m.

9 JUDGE: 9:30 on the nose.

10 MR. NADEL: Yes.

11 DEPUTY D.A.: Your Honor, could we also incorporate

12 by reference the preprinted language on the previously

13 described MIS-111 form?

14 JUDGE: Of course, by all means.

15 DEPUTY D.A.: And officer, you have filled in

16 your name on line 3, is that correct?

17 MR. NADEL: Yes.

18 DEPUTY D.A.: Okay. And you have also filled in

19 the description of the premises in the first blank space,

20 and the description of the property you wish to seize on the

21 second blank space?

22 MR. NADEL: Yes I have.

23 DEPUTY D.A.: All right. And Judge, you have

24 authorized night service and you do feel that there are

25 grounds for a search warrant?

26 JUDGE: I do. And I have so ordered night-time service.

27 DEPUTY D.A.: All right. I have nothing else.

28 Thank you very much, Your Honor.

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JUDGE: You bet. Good night.

MR. NADEL: Good night.

SHARON DALTON: Thank you, Your Honor.

Transcribed by:

Maria Molnar  
June 12, 1974



Tape Index No. begins at: 0063  
Tape Index No. ends at: 0370



1 KENNETH A. JOHNS states:

2 1. That he is a Judge of the Municipal Court,  
3 San Diego Judicial District, State of California.

4 2. That he files herewith the original tape  
5 recording of an oral statement by SETH MADEL, Special Agent,  
6 United States Treasury Department, U.S. Customs Service,  
7 and SHARON DALTON, Special Operator, Food & Drug Adminis-  
8 tration, State of California, made to him under oath,  
9 telephonically, on June 11, 1974, which recording is  
10 marked KAJ #33

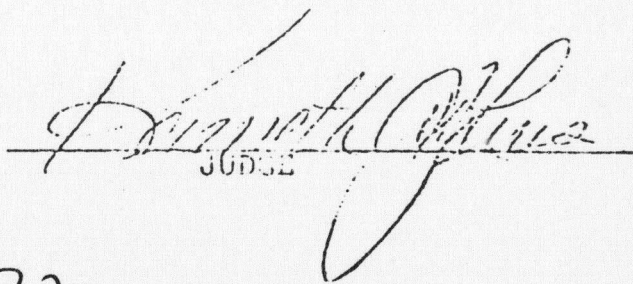
11 beginning at Index No. 0053 and  
12 ending at Index No. 0373.

13 3. That he files herewith the transcript of  
14 said recorded oral statement described in Paragraph 2  
15 above, which said transcript was prepared by MARIA MOLNAR,  
16 under his direction, on June 12, 1974.

17 4. That he files herewith the original search  
18 warrant signed and issued by him on receipt of the sworn  
19 oral statement described in Paragraph 2 above, together  
20 with the duplicate original of said warrant.

21 5. That this certification is made pursuant to  
22 the provisions of Section 1526(b) and 1528(b) of the  
23 Penal Code of California.

24 DATED: 19 June, 1974.

25  
26  
27   
30532

1 The above described tape recording, transcript, and  
2 warrants received and filed June 1974, 1974.

3 JOHN H. PETERSEN, Clerk

4  
5 By S. J. Jom  
6 Deputy

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Date: OCT 8 1974

Text: A true copy.

JOHN H. PETERSEN, Clerk of said Court

By [Signature] Deputy



OCT 9 1 23 PM '76

U.S. DISTRICT COURT  
NEW HAVEN, CONN.

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :

v. :

CRIMINAL NO. 8-74-124

WILLIAM D. TURNER :

MEMORANDUM OF DECISION

Defendant is under indictment by a federal grand jury for importing merchandise into the United States by means of false customs declarations in violation of 18 U.S.C. § 542. As part of the investigation leading up to this indictment, Special Agents of the United States Customs Bureau participated with officials of the Food and Drug Section, California Health Department, in a search of defendant's residence on June 11, 1974. The search was conducted pursuant to a warrant issued under the provisions of California Penal Code Section 1526(b).<sup>1/</sup>

The defendant now moves to suppress the evidence seized in the course of that search on three grounds: (1) that the warrant issued was not supported by oath or affirmation as required by the Fourth Amendment; (2) that the

1/ California Penal Code Section 1526(b) provides:

"In lieu of the written affidavit required in Subdivision (a), the magistrate may take an oral statement under oath which shall be recorded and transcribed. The transcribed statement shall be deemed to be an affidavit for the purposes of this chapter. In such cases, the recording of the sworn oral statement and transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court."

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U.S. Attorney's Office  
NEW HAVEN, CT

warrant was issued under authority of a California statute providing for telephonic search warrants which violates the United States Constitution; and (3) that the requirements of the California statute were not complied with in that a "peace officer" did not sign the issuing magistrate's name to the duplicate original warrant.<sup>2/</sup> The Court finds that there was a violation of the statutory requirements, and therefore, the Court grants the motion to suppress without reaching the constitutional issues. See Hagans v. Lavine, 415 U.S. 528 (1974); Alma Motor Co. v. Timken-Detroit Axle Co., 329 U.S. 29 (1946); cf. United States v. Robinson, 13 CrL 2534 (CA DC February 24, 1976) (dictum).

On June 11, 1974, Kenneth Johns, a magistrate in the San Diego Municipal Court, issued a search warrant for defendant's residence after telephone conversations with Special Agent Seth Nadel, United States Customs Agency Service, Sharon Dalton, a Special Operative of the California Health Department, and Deputy District Attorney Charles Bell. At the conclusion of these conversations, Magistrate Johns directed Special Agent Nadel to sign the magistrate's name on a duplicate original warrant. Thereafter, the warrant was served by a local police officer and the search was

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2/ California Penal Code Section 1528(b) provides:

"The magistrate may orally authorize a peace officer to sign the magistrate's name on a duplicate original warrant. A duplicate original warrant shall be deemed to be a search warrant for the purposes of this chapter and it shall be returned to the magistrate as provided in Section 1537."



conducted by numerous state and federal law enforcement personnel, including Nadel and Dalton. The return of the search warrant and inventory was made by a local police officer.

The California statute authorizing telephonic search warrants was complied with in all respects except for the signing of the magistrate's name by a peace officer. California Penal Code Section 1523(b). It is clear that, although Special Agent Nadel's duties as a federal officer closely parallel those of a California peace officer, Nadel is not a peace officer under California law. California Penal Code Section 830 et seq.; People v. Lacey, 105 Cal. Rptr. 72, 76 (Cal. App. 1973); People v. Yet Ning Yee, 145 C.A.2d 513, 302 P.2d 616 (1956); In re Neagle, 39 Fed. 883 (Cir. Ct. U.D. Calif.), aff'd 135 U.S. 1 (1890). The government contends that the language of California Penal Code, Section 1523(b) (see footnote 2, supra), is permissive, not mandatory, and does not prohibit the magistrate from authorizing someone other than a peace officer to affix the magistrate's name to the warrant. The Court disagrees.

Section 1523(b) is permissive only in the sense that it is an alternate procedure to Section 1523(a) (warrant signed by magistrate) for the issuing of a search warrant. The requirements of Section 1523(b), when viewed as steps in the telephonic search warrant procedure, are mandatory and must be strictly observed. Cf. People v. Mills, 59 Cal. Rptr. 439, 499 (Cal. App. 1967). Sections 1526(a) and (b) define the types of affidavits required for a warrant to issue and Sections 1528(a) and (b) prescribe the procedure for issuance by the magistrate. Just as Section 1528(a) requires

that the magistrate issue a signed warrant to a peace officer after written affidavits, Section 1528(b) requires that a peace officer sign the magistrate's name to the duplicate original warrant. The role of the peace officer at this point in the search warrant process ensures that, ab initio, the search has been initiated and will be conducted by California law enforcement officials. When Sections 1526(a) and 1528(a) and Sections 1526(b) and 1528(b) are viewed as alternate methods of achieving this result, the mandatory nature of the provisions of 1528(b) is clear. Cf. Bowyer v. Superior Court of Santa Cruz County, 111 Cal. Rptr. 628, 636 Cal. App. 1974).

The government also argues that the signing of the magistrate's name to the warrant is a mere ministerial act, and the failure to have the name affixed by a California peace officer results in no prejudice to the defendant. However, the government concedes that California requires other steps in the search warrant process, nonministerial and ministerial, such as execution of the search warrant and return of the warrant and inventory, to be performed by a peace officer, and cites no authority to meet defendant's contention that the requirements of search warrant statutes are mandatory in every material respect. Cf. People v. Mills, supra. Moreover, the Court does not agree that the affixing of the magistrate's name to the search warrant is a "mere ministerial act." The signing of the warrant serves as a guarantee that the warrant is in compliance with the applicable statutes. As was pointed out above, Section 1528(b) is the counterpart to 1528(a) which requires that the magistrate sign the warrant. The approach of Sections 1526(b) and



1528(b) to the issuance of search warrants is a novel extension of the written affidavit procedure. As the court in Bowyer v. Superior Court of Santa Cruz County, supra, at 637 stated:

"Because the proceeding by a search warrant is a 'drastic one,' whose abuse led to the adoption of the 4th Amendment itself, legislation regulating the process must be liberally construed in favor of the individual affected . . . Every constitutional and statutory requirement must be fully met, including all formalities required by statute, before a valid search warrant may issue."

Affixing the magistrate's signature to the duplicate original warrant, which is deemed a search warrant and returned with an inventory to the magistrate, indicates that the warrant is in proper form and that sufficient probable cause has been demonstrated for its issuance. The signature attests to the legal sufficiency of the warrant; and hence, it is clearly more than a "mere ministerial act." Cf. United States v. Hall, 505 F.2d 961, 964 (3 Cir. 1974); United States v. Sorriano, 482 F.2d 469, 473-480 (5 Cir. 1973). This Court concludes that, faced with the novelty of this statute, the California Supreme Court would require strict observance of the statutory procedures.

Accordingly, the motion to suppress is granted.

Dated at New Haven, Connecticut, this 5<sup>th</sup>  
day of October, 1976.

Robert C. Zampano  
United States District Judge

36A

United States Court of Appeals  
FOR THE SECOND CIRCUIT

No. 76-1518

U S A,                      APPELLANT  
vs.  
WILLIAM TURNER,           APPELLEE

AFFIDAVIT OF SERVICE BY MAIL

Patricia D. O'Hara, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 51 West 70th Street, New York, New York 10023

That on the 17th day of December, 1976, deponent served the within Brief & Appendix upon Robert Oliver, Esq., 205 Church Street, New Haven, Connecticut 06510

Attorney(s) for the Appellee in the action, the address designated by said attorney(s) for the purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in a post office official depository under the exclusive care and custody of the United States Post Office department within the State of New York.

*Patricia D. O'Hara*  
Sworn to before me,

This 17th day of December 1976

*Edward A. Quimby*

EDWARD A. QUIMBY  
Notary Public, State of New York  
No. 24-3183500  
Qualified in Kings County  
Commission Expires March 30, 1977